



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,780	11/26/2003	Richard T. Raines	023880-6	5086
22204 7590 09/18/2008 NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128				
EXAMINER				
ZURITA, JAMES II				
ART UNIT		PAPER NUMBER		
3625				
MAIL DATE		DELIVERY MODE		
09/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/721,780

**Applicant(s)**

RAINES ET AL.

**Examiner**

JAMES ZURITA

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-60, 62, 63 and 65-125 is/are pending in the application.
- 4a) Of the above claim(s) 1-51, 93-112 and 119-125 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-60, 62-63, 65-92 and 113-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 26 June 2008 has been entered.

### ***Response to Amendment***

On 26 June 2008, applicant amended claims 52-65, 69, 73-74, 75, 113, and 115 and cancelled claims 61 and 64.

Claim 1-60, 62-63 and 65-125 are pending. Claims 1-51, 93-112 and 119-125 are withdrawn from prosecution as directed to a non-elected invention.

Claims 52-60, 62-63, 65-92 and 113-118 will be examined.

Claims 52 (drawn to methods), 75 (drawn to systems) and 113 (drawn to a medium) are independent.

### ***Response to Arguments***

Applicant's arguments filed 26 June 2008 have been fully considered but they are not persuasive.

Arguments concerning 35 USC 102 are moot in view of new grounds of rejection.

Applicant argues, pages 32-33

For example, the amended claims recite that the price adjustment value is quantifiable and for a particular vehicle, that the vehicle history attributes indicate prior events in the use of the particular vehicle, and that the transaction record includes a transaction price.

The invention, as recited in the amended claims utilizes the price of transactions of a vehicle and a plurality of vehicle history attributes, indicating prior events in the use of a particular vehicle, to calculate a single price adjustment value for the particular vehicle.

In conventional pricing methods, such as those disclosed by Brown and Little, used car pricing was driven by the make and model of a vehicle generally. Adjustment of the price could be made by taking into account current status of the vehicle, such as the current mileage and/or the current condition of the car. However, the conventional methods were imprecise because they did not take into account prior events in the use of the vehicle, such as deployment of the airbag, major accidents, and the like.

Price adjustments are quantifiable. Buyer pays quantifiable amounts of money in exchange for a car. Brown discloses that buyers (a used car dealer, for example) purchase used cars. The fact that a car has been used is a historical attribute indicating a prior event in the use of the car. Brown discloses suspicious odometer and ownership histories. Brown, Abstract.

Brown, paragraph 12, also discloses that carmax (assignee of the instant application) provides a car's vital history, including discrepancies in mileage statements. Brown, paragraph 16, discloses that there is a value to presenting a car for sale with low mileage. The buyer "...always use(s) [carmax] information concerning odometer discrepancies..." to buy the [specific] used car. The amount of money paid by the buyer is quantifiable; it is a single quantifiable price. Little, at 4, discloses adjusting price for equipment and mileage (odometer readings).

Applicant argues, page 33,

The invention achieves a more precise value for a particular vehicle by taking into account historical purchase prices of the vehicle and prior events for that particular vehicle. Neither Brown nor Little teach or suggest these features or the advantages associated therewith. Accordingly, the rejection should be withdrawn. The remaining

claims are allowable at least by virtue of their dependence from one of independent claims 52, 75, and 113.

The specifications do not mention purchase price. The claims do not refer to historical purchase price but read:

...obtaining at least one transaction record relating to sale transactions of the particular vehicle, each transaction record including a transaction price...

The Examiner notes that applicant appears to rely on various labels to refer to different money amounts. The various labels carry little to no patentable weight. For example, the claims refer transaction price, single quantifiable price adjustment value, price adjustment value, base price, calculated price adjustment value. The specifications refer to calculating price adjustment values, deriving price adjustment values (paragraph 11, for example). Applicant also refers to multivariate analysis, mathematical models, equations, price differentials, and others [paragraph 0082]. Fig. 6 appears to show data structures that contain specific money amounts applied to particular vehicle history attributes.

For examination, the claims are interpreted to refer to subtracting dollar amounts for vehicle history attributes. Prior art is interpreted to disclose the claimed limitations where prior art discloses collecting information concerning a used car and reducing a final price according to the car's history.

Applicant argues, pages 33

The Examiner cites paragraph 20 of Brown as disclosing the step of determining whether a buyer had knowledge of vehicle history attributes that time of a sale transaction. However, this portion of the reference merely discloses that buyers don't always know the current mileage of a vehicle when they purchase it.

This does not teach the need for and advantages of determining whether a buyer had knowledge of historical attributes at the time of sale to determine how to use the sales

Art Unit: 3625

transaction record in calculating a price adjustment. In fact, this portion of the reference underscores the problem of imprecision associated with the prior art.

In response, the fact that customers were duped shows the need to know what had been done to the cars and that the buyer did not have knowledge of the particular attribute in the vehicle history at the time of the corresponding transaction.

Previously, Applicant argued,

However, nowhere in the cited Brown or **Little** references, or other references of record, is there any teaching as to how to determine what the price adjustment value is or should be for a given vehicle history attribute. Page 35, emphasis in original and added.

Now, Applicant argues,

For example, the amended claims recite that the price adjustment value is quantifiable and for a particular vehicle, that the vehicle history attributes indicate prior events in the use of the particular vehicle, and that the transaction record includes a transaction price.

The invention, as recited in the amended claims utilizes the price of transactions of a vehicle and a plurality of vehicle history attributes, indicating prior events in the use of a particular vehicle, to calculate a single price adjustment value for the particular vehicle.

Brown and Little meet the language of claim 52, emphasis added:

calculating a single quantifiable price adjustment value for said particular vehicle based on a plurality of said vehicle history attributes and said at least one transaction record records[sic].

Applicant uses the terms database, dataset, record(s), attributes with various labels. For examination, the claims are interpreted to include any physical and logical structure that may be used to store the particular data. Prior art is interpreted to disclose the claimed limitations where prior art discloses structure that is reasonable capable of performing the claimed functions.

### ***Claim Objections***

The following are objected to because of informalities:

Claim 52 contains a word processing error "...calculating...based on...and said at least one transaction record records."

Claim 75 refers to transactional record and transaction record; this appears to be a word processing error, since, in all other claims, transactional record was changed to transaction record.

Claim 75 contains means for and appears to be an effort to invoke the sixth paragraph of 35 USC 112. There is insufficient structure to determine the means...for equivalent. The claim is interpreted as not invoking the sixth paragraph.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 52-60, 62-63, 65-92 and 113-118, as interpreted, are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, Just How Used is That Used Car? The Washington Post, 18 August 1997 and Little, Buying and selling a car online, Mac@Home Louisville: Sep 1999.Vo1.4, Iss. 9; pg. 4, 6 pgs, downloaded from the Internet on 10 December 2006.

As per claim 52, Brown discloses method(s) for adjusting a price of a particular used vehicle comprising the steps of:

obtaining at least one vehicle history dataset relating to a particular vehicle, at least some of said datasets having vehicle history attributes regarding the particular

vehicle (Brown, abstract, 190 million previously owned vehicles), said vehicle history attributes indicating prior events in the use of the particular vehicle (Brown, abstract, pedigree, liens, wrecked, damaged by flood);

obtaining at least one transaction record relating to sale transactions of the particular vehicle, each transaction record including a transaction price. Brown, paragraph 12, discloses that carmax provides a car's vital history, including discrepancies in mileage statements.

Brown does not specifically disclose calculating a single quantifiable price adjustment value for said particular vehicle based on a plurality of said vehicle history attributes and said at least one transaction records. This is disclosed by Little, at least page 4, "...offers trade-in and market pricing, and help adjusting these prices..."

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brown to have included calculating a single quantifiable price adjustment value for said particular vehicle based on a plurality of said vehicle history attributes and said at least one transaction records because the incorporation of such features is no more than the predictable use of prior art elements according to their established function.

As per claim 53, Little discloses displaying said price adjustment value for said particular vehicle. Little, figures C and G.

As per claim 54, Little discloses obtaining a base price for said particular vehicle from a used vehicle valuation service. Little, page 4 and references to Edmunds.



As per claim 55, Little discloses adjusting said base price for said particular vehicle based on said calculated price adjustment-value. See Little, page 4, second to last paragraph.

As per claim 56, Little discloses displaying said adjusted base price for said particular vehicle. See, for example, *Little*, page 4, Fig.

As per claim 58, Brown discloses determining which of said vehicle history attributes a buyer had knowledge of at the time of the corresponding sales transactions of said transaction records. Brown, paragraph 20.

As per claim 59, Brown discloses that the calculating step is further based on said determining step whether sale transactions of said plurality of transaction records occurred with buyer's knowledge of said vehicle history attributes. See, for example, Brown, page 3, paragraph 23.

Brown and Little do not specifically disclose

- retrievably storing said price adjustment value in a price adjustment database (claim 57);

- that the calculating step uses only transaction records in which the buyer had knowledge of said vehicle history attributes at the time of the corresponding transaction, as determined in said determining step (claim 60)

- that the determining step comprises classifying said transaction records into classes comprising a Known Class in which each sale transaction occurred with buyer's knowledge of said vehicle history attributes, and a Not Known Class in which each sale transaction occurred without buyers' knowledge of said vehicle history attributes (claim 62)

- that the determining step further comprises classifying said transaction records into an Uncertain Class in which buyer's knowledge of said vehicle history attributes is indeterminate (claim 63);

- that an average transaction price for a type of vehicle in said transaction records classified in said Not Known Class that have the same vehicle parameters, said vehicle parameters including at least identical make, model and year (claim 65);

- that the vehicle parameters further include at least one of mileage, color, location and options of said type of vehicle in said transaction records (claim 66)

- that the identifying at least one transaction record for said type of vehicle in said transaction records classified in said Known Class that have the same vehicle parameters (claim 67)

Art Unit: 3625

that calculating a price differential between transaction price associated with said at least one transaction record in said Known Class, and said determined average transaction price for said type of vehicle in said transaction records classified in said Not Known Class (claim 68)

that calculating price adjustment values for said vehicle history attributes includes attributing said price differential to said vehicle history attributes in said at least one transaction record in said Known Class (claim 69)

that at least one transaction record in said Known Class is a plurality of transaction records in said Known Class, and said method further includes the step of determining price differentials between each of said plurality of transaction records in said Known Class and said determined average transaction price (claim 70);

performing multivariate analysis to compute price adjustment values for said vehicle history attributes in said plurality of transaction records (claim 71);

that the plurality of transaction records in said Known Class from which price differentials are determined are transaction records for the same type of vehicle having the same vehicle parameters as said transaction records classified in said Not Known Class from which said average transaction price is determined (claim 72);

that the transaction records classified in said Not Known Class correspond to transactions within a predetermined time (claim 73);

that the predetermined time is not greater than one year from a time of said at least one transaction record in said Known Class (claim 74).

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brown and Little to have included

retrievably storing said price adjustment value in a price adjustment database (claim 57);

that the calculating step uses only transaction records in which the buyer had knowledge of said vehicle history attributes at the time of the corresponding transaction, as determined in said determining step (claim 60)

that the determining step comprises classifying said transaction records into classes comprising a Known Class in which each sale transaction occurred with buyer's knowledge of said vehicle history attributes, and a Not Known Class in which each sale transaction occurred without buyers' knowledge of said vehicle history attributes (claim 62)

that the determining step further comprises classifying said transaction records into an Uncertain Class in which buyer's knowledge of said vehicle history attributes is indeterminate (claim 63);

that an average transaction price for a type of vehicle in said transaction records classified in said Not Known Class that have the same vehicle parameters, said vehicle parameters including at least identical make, model and year (claim 65);

that the vehicle parameters further include at least one of mileage, color, location and options of said type of vehicle in said transaction records (claim 66)

that the identifying at least one transaction record for said type of vehicle in said transaction records classified in said Known Class that have the same vehicle parameters (claim 67)

that calculating a price differential between transaction price associated with said at least one transaction record in said Known Class, and said determined average transaction price for said type of vehicle in said transaction records classified in said Not Known Class (claim 68)

that calculating price adjustment values for said vehicle history attributes includes attributing said price differential to said vehicle history attributes in said at least one transaction record in said Known Class (claim 69)

that at least one transaction record in said Known Class is a plurality of transaction records in said Known Class, and said method further includes the step of determining price differentials between each of said plurality of transaction records in said Known Class and said determined average transaction price (claim 70);

performing multivariate analysis to compute price adjustment values for said vehicle history attributes in said plurality of transaction records (claim 71);

that the plurality of transaction records in said Known Class from which price differentials are determined are transaction records for the same type of vehicle having the same vehicle parameters as said transaction records classified in said Not Known Class from which said average transaction price is determined (claim 72);

that the transaction records classified in said Not Known Class correspond to transactions within a predetermined time (claim 73);

that the predetermined time is not greater than one year from a time of said at least one transaction record in said Known Class (claim 74).

because the incorporation of such features is no more than the predictable use of prior art elements according to their established function.

Independent Claim 75 is rejected on the same grounds as claim 52.

Claim 76 is rejected on the same grounds as claim 57.

Claims 77-85 are rejected on the same grounds as claims 58-74.

Claims 86-88 is rejected on the same grounds as claim 71-73.

Claim 89 is rejected on the same grounds as claim 53.

Claims 90-92 are rejected on the same grounds as claims 54-56.

Claims 93-112 are rejected on the same grounds as claims 58-74.

Independent Claim 113 is rejected on the same grounds as claim 52.

Claims 114-116 are rejected on the same grounds as claims 54-56.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Maynard, Playing Used-Car Detective, Online, New York Times, 07/29/2001, page. 10, downloaded from ProQuest on the Internet on 13 September 2008, 4 pages.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES ZURITA whose telephone number is (571)272-6766. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571)272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

***/James Zurita/  
Primary Examiner  
Art Unit 3625  
12 September 2008***